

JASON STUFFLEBEAN,)
)
Plaintiff,)
)
v.) No. 4:13-CV-1156-CDP
)
SALLY FAITH, et al.,)
)
Defendants.)

This matter is before the Court upon review of the complaint [Doc. #1]. The Court believes that, although plaintiff may be able to assert a cause of action based on the denial of his Constitutional rights, he has failed to do so at this time, because the complaint is silent as to whether he is suing defendants in their official and/or individual capacity.

Taking into consideration the fact that plaintiff is proceeding pro se and in forma pauperis, the Court will instruct him to file a written supplement to his complaint, in which he states the capacity (i.e., official capacity, individual capacity, or both individual and official capacities) in which he is suing each of the named defendants in this action. In this regard, the United States Court of Appeals for the Eighth Circuit "has held that, in order to sue a public official in his or her individual capacity, a plaintiff must expressly and unambiguously state so in the pleadings,

otherwise, it will be assumed that the defendant is sued only in his or her official capacity.'" *Alexander v. Hedback*, 718 F.3d 762, 766 n.4 (8th Cir. 2013) (quoting *Johnson v. Outboard Marine Corp.*, 172 F.3d 531, 535 (8th Cir. 1999)). Plaintiff is advised that he must sign the supplement to the complaint.

In accordance with the foregoing,

IT IS HEREBY ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint at this time.

IT IS FURTHER ORDERED that plaintiff shall file a written supplement to his complaint within thirty (30) days from the date of this Order, stating whether he is suing each of the named defendants their official capacity, individual capacity, or both official and individual capacities, in accordance with the specific instructions set forth above.

IT IS FURTHER ORDERED that plaintiff's failure to comply with this Order will result in the dismissal of this action, without prejudice and without further notice to him.

Dated this 14th day of August, 2013.


UNITED STATES DISTRICT JUDGE